**(2003) 06 NCDRC CK 0031**

**In the National Consumer Disputes Redressal Commission**

Branch Manager, LIC of India APPELLANT

Vs

MALAPATI DHANALAXMI RESPONDENT

**Date of Decision :** 18-06-2003

**Acts Referred:**

**Citation :** 2004 2 CPJ 436

**Hon'ble Judges :** P.Ramakrishnam Raju , C.P.Suresh J.

**Final Decision :** Appeal allowed

# Judgement

1. THE unsuccessful opposite party is the appellant before this Commission.

2. THE facts in brief are that one Malapati Venkata Bhaskara Reddy, obtained a life insurance policy for Rs. 30,000/- from the opposite party and while the policy was in force died on 11.6.1996. THE complainant being the nominee and the wife of the deceased claimed the said amount. The opposite party filed its written version admitting the policy, but alleged that the policy has lapsed and it was renewed on 28.5.1996, and at the time of revival of the policy the policy holder submitted a personal statement on 22.5.1996 wherein he wilfully suppressed his health condition and the investigation revealed that he suffered from stomach cancer for which he took treatment in the Cancer Institute, Adyar, Chennai and hence, the claim of the complainant was rightly repudiated.

The District Forum allowed the complaint.

3. AGGRIEVED by the said finding and order, the opposite party preferred this appeal. The point for consideration is whether there is any deficiency in service on the part of the opposite party? The facts which are not in dispute are that the complainant''s husband late Malapati Venkata Bhaskara Reddy obtained an insurance policy for Rs. 30,000/- and during the subsistence of the policy died on 11.6.1996. The defence of the opposite party is that the policy has lapsed but it was revived on 28.5.1996 and at the time of revival of the policy the insured had made a personal statement dated 22.5.1996 and has wilfully suppressed his condition of health though he suffered with stomach cancer for which he took

 

treatment in the Cancer Institute, Adayar, Chennai. The insured has submitted his personal statement on 22.5.1996 in which he has replied in the negative to all the questions relating to his health. The personal statements is dated 22.5.1996. The certificate of hospital treatment shows that the insured was admitted in the hospital on 2.4.1996. In column 4, nature of the complaint is mentioned as "pain abdomen" and the duration of the complaint as reported by him is mentioned as "one year three months prior to reporting to Cancer Institute." He has suppressed the fact of his joining the Cancer Hospital at Chennai and of his suffering with the complaint from one year three months prior to reporting to Cancer Institute. This amounts to material suppression.

4. THE National Commission in Marketing Manager, LIC of India v. Smt. S. Vijaya, in I (1995) CPJ 122 (NC)=Revision Petition No. 162/1994 decided on 13.12.1994 held that according to the diagnosis, as noted in the Discharge Records of the hospital, the insured was suffering form Cirrhosis of liver, and he was a chronic alcoholic from about 10 years and he had three attacks of jaundice. It further held that it is evident that in the personal health statement submitted by the insured just prior to revival of policy, he had suppressed the material facts concerning his health. As the complainant has suppressed the material facts, the opposite party is justified in repudiating the policy. The District Forum erred in allowing the complaint. Therefore, this appeal is allowed and the order of the District Forum is set aside and there will be no order as to costs. Appeal allowed.

 